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May 30, 2012

The Honorable Sandra Feuerstein, U.S.D.C.J.
United States District Court, Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: Proctor v. Cagno, et. al.
Docket No: 10 CV 5981
Status of Criminal Charges

Dear Judge Feuerstein:

This firm represents defendants Vincent Cagno, Eric Sickles and Sergeant Kiernan, all of whom are employed by the Southampton Town Police Department. Assistant Suffolk County Attorney Arlene Zwilling represents defendant Assistant District Attorney Andrew Heffernan. I am writing on behalf of all defendants to advise this Court of a change in the plaintiff's criminal status.

Plaintiff, Mohammed Proctor, commenced the instant litigation claiming violations of his Fourth, Fifth, Sixth, Eighth and Fourteenth Amendment rights. He was arrested on April 21, 2010 by the Southampton Police Officers after it was discovered that he had secreted a bag containing cocaine in his rectum. He alleges that he was illegally searched, subjected to excessive force and cruel and unusual punishment, forced to sign a statement that was false, that he was maliciously prosecuted, and that his right to a speedy trial was impaired. Mr. Proctor was indicted on twelve counts of selling and possessing a controlled substance, and thereafter pled guilty to each of the crimes with which he was charged. As a result, he was incarcerated at Collins Correctional Facility.

The Honorable Sandra Feuerstein, U.S.D.C.J.
United States District Court, Eastern District of New York

February 14, 2012

Re: Proctor v. Cagno, et. al.
Docket No: 10 CV 5981

Suffolk County filed its motion to dismiss on December 12, 2011 and the Southampton Defendants filed their motion to dismiss on February 13, 2012. Both motions were unopposed. A hearing on this motion is set for September 12, 2012.

It has come to my attention, that the District Attorney's Office has vacated Mr. Proctor's convictions. Apparently this was done in open court and without a written order. It is my understanding that there are minutes which reflect the court's determination as a result of the District Attorney's application, however, those minutes are now sealed.

We wanted to report this new development to the Court and request that we be given time to obtain these minutes, by way of an unsealing order. Additionally, once we receive these minutes, we need to assess the effect of the vacated convictions upon our motions to dismiss.

Respectfully submitted,

DEVITT SPELLMAN BARRETT, LLP

/S/
Jeltje deJong

enc.

cc: Mohammed Proctor
Pro se Plaintiff
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(with additional copy of motion papers)

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